

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA

v.

WILLIE RUSSELL

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§ Crim. No. 1:08CR102HSO-RHW

**ORDER DENYING DEFENDANT'S MOTION
FOR REDUCTION OF SENTENCE**

BEFORE THE COURT is Defendant's Motion for Reduction of Sentence Based on Retroactive Guideline Amendment filed in the above captioned cause on December 22, 2008 [17-1]. Defendant asserts that he is entitled to a reduction in his sentence based upon recent amendments to the Sentencing Guidelines applicable to offenses involving cocaine base, or "crack".

The record before the Court establishes that Defendant pled guilty to possession with intent to distribute cocaine base and aiding and abetting on November 10, 1999, in the Western District of Texas, Waco Division. On February 10, 2000, Russell was sentenced to a term of 92 months imprisonment to be followed by a five-year term of supervised release. Jurisdiction of this case was transferred to the Southern District of Mississippi on August 22, 2008, shortly after Defendant's release from confinement.

Section 1B1.10 of the United States Sentencing Commission Guidelines Manual, states in part that: "[o]nly a term of imprisonment imposed as part of the original sentence is authorized to be reduced under this section. This section does

not authorize reduction in a term of imprisonment imposed upon revocation of supervised release.” U.S.S.G. § 1B1.10, comment(n.4(A)). Having considered the Motion and the pleadings on file, the Court finds that Defendant does not qualify for the crack reduction because upon release from Bureau of Prisons confinement, his term of supervised release was revoked on October 28, 2008, thereby rendering him ineligible for a reduction in sentence pursuant to § 1B1.10 of the United States Sentencing Commission Guidelines Manual. Accordingly,

IT IS, THEREFORE, ORDERED AND ADJUDGED that Defendant’s Motion for Reduction of Sentence Based on Retroactive Guideline Amendment filed December 22, 2008 [17-1], should be and hereby is **DENIED**.

SO ORDERED AND ADJUDGED, this the 14th day of January, 2009.

s/ Halil Suleyman Ozerden
HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE